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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/041,724	01/08/2002	Scott Lang	8364/85922	5230

7590 02/05/2004

PATENT SERVICES GROUP  
HONEYWELL INTERNATIONAL, INC.  
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MORRISTOWN, NJ 07962

EXAMINER
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GUTIERREZ, DIEGO F

ART UNIT	PAPER NUMBER
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2859

DATE MAILED: 02/05/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Advisory Action</b>	Application No. 10/041,724	Applicant(s) LANG ET AL.	
	Examiner Lydia M. De Jesús	Art Unit 2859	

**--The MAILING DATE of this communication appears on the cover sheet with the corresponding address--**

THE REPLY FILED 01 December 2003 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE. Therefore, further action by the applicant is required to avoid abandonment of this application. A proper reply to a final rejection under 37 CFR 1.113 may only be either: (1) a timely filed amendment which places the application in condition for allowance; (2) a timely filed Notice of Appeal (with appeal fee); or (3) a timely filed Request for Continued Examination (RCE) in compliance with 37 CFR 1.114.

**PERIOD FOR REPLY [check either a) or b)]**

- a) ☐ The period for reply expires \_\_\_\_\_ months from the mailing date of the final rejection.
- b) ☒ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection. ONLY CHECK THIS BOX WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

1. ☐ A Notice of Appeal was filed on \_\_\_\_\_. Appellant's Brief must be filed within the period set forth in 37 CFR 1.192(a), or any extension thereof (37 CFR 1.191(d)), to avoid dismissal of the appeal.
2. ☒ The proposed amendment(s) will not be entered because:
- (a) ☒ they raise new issues that would require further consideration and/or search (see NOTE below);
  - (b) ☒ they raise the issue of new matter (see Note below);
  - (c) ☒ they are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
  - (d) ☐ they present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: See Continuation Sheet.

3. ☐ Applicant's reply has overcome the following rejection(s): \_\_\_\_\_.
4. ☐ Newly proposed or amended claim(s) \_\_\_\_\_ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
5. ☒ The a) ☐ affidavit, b) ☐ exhibit, or c) ☒ request for reconsideration has been considered but does NOT place the application in condition for allowance because: See Continuation Sheet.
6. ☐ The affidavit or exhibit will NOT be considered because it is not directed SOLELY to issues which were newly raised by the Examiner in the final rejection.
7. ☐ For purposes of Appeal, the proposed amendment(s) a) ☐ will not be entered or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.

The status of the claim(s) is (or will be) as follows:

Claim(s) allowed: \_\_\_\_\_.

Claim(s) objected to: \_\_\_\_\_.

Claim(s) rejected: \_\_\_\_\_.

Claim(s) withdrawn from consideration: \_\_\_\_\_.

8. ☐ The drawing correction filed on \_\_\_\_\_ is a) ☐ approved or b) ☐ disapproved by the Examiner.
9. ☐ Note the attached Information Disclosure Statement(s) (PTO-1449) Paper No(s). \_\_\_\_\_.
10. ☐ Other: \_\_\_\_\_.

Continuation of 2. NOTE: The amendments presented for claims 26 and 33 set forth limitations which were not present in the finally rejected claims and which will require further consideration and/or search. Furthermore, the added limitation recites that both the source and the sensor are configured to project a radiant energy beam and this raises the issue of new matter.

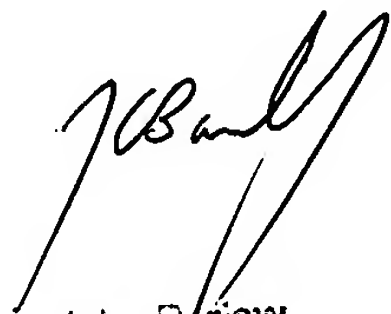
Continuation of 5. does NOT place the application in condition for allowance because:

In response to Applicant's arguments stating that the references do not address beam misalignment: It is noted that although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993).

As discussed in the Final Office action, it is considered that the language of claims 26-29, 30-32 and 43 fails to clearly set forth a axis or reference to which the beam is aligned in said alignment test. In this case, although it is understood from Applicant remarks and from the disclosure that the alignment test refers to testing whether the emitter is appropriately aligned with the receiver, the claims fail to set forth this distinction and hence the limitation "a beam alignment test" is considered to be unclear.

It is further noted that Schwartz states in lines 66-69 of column 4 that "offset and alignment variables which permit calibration of each light valve 20 can be built into the operating program" and said calibration of the light valve based upon the alignment variables is considered to correspond to a beam alignment test.

In the case of Graham, Graham discloses the background of the invention that when the chopper or filter is aligned with the source and the sensor will result in a square wave signal (lines 49-62 of column 1) and further describes in column 3 how the sensor signal wave is simplified into a near sine wave and the response is further calibrated for errors and corrected, and this calibration is considered to correspond to a beam alignment test.

  
John Barlow  
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